

IN THE MATTER OF:  
ANTOINETTE L. MULL  
706 SEAWALL ROAD  
BALTIMORE, MD 21221

RE: DENIAL OF RESERVED  
HANDICAPPED PARKING SPACE

\* BEFORE THE  
\* BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* Case No. CBA-21-006

\* \* \* \* \*

### **OPINION**

This case comes to the Board of Appeals (the "Board") as the result of the denial of an application for reserved handicapped parking space at 706 Seawall Road, Baltimore, Maryland 21221 (the "Property"), as set forth by letter dated July 29, 2020, from Michael F. Filsinger, Chief of the Baltimore County Division of Traffic Engineering (DTE) to Mr. Earl Beville, Assistant Manager, Investigative and Internal Affairs, Motor Vehicle Administration (MVA). (Exhibit 6). A copy of that letter was sent to Applicant/Appellant, Antoinette L. Mull ("Ms. Mull"), along with a copy of the County Policy with respect to handicapped parking spaces. Ms. Mull noted a timely appeal to this Board.

The Board held a virtual public hearing on November 18, 2020. Baltimore County (the "County") was represented by Howard Daue, a Traffic Inspector for the Baltimore County DTE. Ms. Mull represented herself.

Mr. Daue testified that his office received an MVA Application for Personal Residential Permit for Reserved Parking Space for Ms. Mull dated June 29, 2020. (Exhibit 1). Mr. Daue visited and inspected the Property on July 28, 2020, and took photographs of the rear and the front of the Property (Exhibits 2A and 2B respectively). Ms. Mull had filed an earlier application dated February 21, 2020. (Exhibit 2C). That application had been denied on March 3, 2020. (Exhibit 2D). In the context of that application, Mr. Daue had also taken photographs of the rear and front

of Ms. Mull's home. (Exhibits 2E and 2F, respectively). Those photographs were essentially the same as Exhibits 2A and 2B.<sup>1</sup>

The Property is an interior house in a group of rowhouses on Seawall Road. Exhibits 2A and 2E show a rear-parking pad enclosed by a chain link security fence with a double swinging gate. The County accepted the MVA's verification of physical disability and did not contest Ms. Mull's disabilities which, as further documented by Ms. Mull, are multiple sclerosis (MS) and diabetic retinopathy.<sup>2</sup> Ms. Mull uses a walker and a cane as needed. Based upon Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities<sup>3</sup> (the "BC Policy") (Exhibit 5), the County concluded that Ms. Mull did not meet the requirements for a reserved parking space because Section 3B of the BC Policy indicates that having a self-contained off-street space is a disqualifying circumstance.<sup>4</sup> Mr. Daue testified that Ms. Mull's rear parking pad constituted a self-contained off-street parking area, and accordingly, Mr. Daue indicated that the application was denied pursuant to BC Policy Section 3(B). (Exhibit 5).

Ms. Mull testified for herself. As reflected above, Exhibits 2A and 2E depict the rear of her house. There is a rear parking pad which could, by size, accommodate her automobile. Exhibits 2B and 2F reflect the front of her home. In the front of the house, there are three small and relatively flat steps from the sidewalk to a flat concrete landing of three or four feet in length. At the end of the landing are six steps leading up to her front door. There is a metal handrail for those

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<sup>1</sup> Ms. Mull testified that she had not understood the County policy and procedure as of the earlier application and had failed to appeal that denial.

<sup>2</sup> The record contains communications from Greater Baltimore Medical Center and the University of Maryland Medical Center documenting her conditions and indicating that those conditions called for as much reduction of walking as possible. Those communications are in the record as Appellant's Exhibits 1 and 2.

<sup>3</sup> The Ann. Code of Md., Transportation Article, Section 21-1005 authorizes the State Department of Motor Vehicles to issue on-street reserved parking for persons with physical disabilities. That same section delegates approval of such a reserved space for Baltimore County residents to the Baltimore County DTE. (Exhibit 4).

<sup>4</sup> Section 3B comports with the State regulation to the same effect. *See* COMAR 11.16.06. (Exhibit 3).

steps. There is no handrail for the three access steps. (Exhibits 2B and 2F). Ms. Mull testified that the railing on the front steps is far more secure than the railing alongside the rear steps. There appear to be ten or eleven rear steps, and the rear stairway has a greater incline than does the front steps. It was significant to the Board that to utilize the rear pad, Ms. Mull would have to exit her vehicle, open the two gates, re-enter the vehicle and drive into the rear yard, and then, upon leaving the automobile, close and lock the two gates of the security fence before even beginning to negotiate the rear stairway. This is a significant and arduous task for someone with MS, which is a severely crippling and progressive condition that affects both muscular coordination and neurological functioning. Her medical condition necessitates her use of the front. Ms. Mull testified that recently she almost fell down as she was negotiating the front steps, and the Board considers the likelihood of a fall as a very substantial risk. If she were to fall in the front, her neighbors or passersby would likely see the situation and respond in short order. If, however, she were to fall in the back alley as she was opening or closing the gates or walking to the rear steps, or as she was going up those steps, she could possibly lie helpless for hours. A reserved space in front of her house is a minor accommodation to avoid the serious possible consequences of a fall for someone with MS. Finally, the parking on Seawall Road is front in parking which is vastly easier than negotiating entry into the rear area with the opening and closing of the gates and the extra walking all of that activity entails. While the front access to Ms. Mull's home is by no means perfect for a person with her disabilities, it is far superior to the rear parking and less of a hardship for her. Ms. Mull also testified that there is plenty of parking in the front and her reserved parking space would not produce a hardship for her neighbors.

One could argue that these circumstances mean that Ms. Mull does not have an available rear parking pad for the reasons stated above. It would then follow that Section 3(B) is not disqualifying. More properly, however, Section 3(G) permits the DTE to grant exceptions to

Section 3(B) under certain circumstances even if the rear is considered as an available parking area. Here, the conditions make utilization of the rear area far more difficult for a person with Ms. Mull's disabilities, which, of course, only worsen with time. The situation is such that, as stated in Section 3(G), there exists here ". . .extremely unique circumstances and hardships due to the physical characteristics of the property and the applicant's disability" which justify an exception to the policy stated in Section 3(B).

Reversal of a decision of the Baltimore County DTE with respect to handicapped parking spaces, requires that the Board find that the Applicant meets all of the conditions set forth in Section 8 of the BC Policy referred to above as reflected in Exhibit 5. The conditions are as follows:

- (A) The applicant and/or their household has taken all reasonable measures to make the off-street parking area usable and available to the disabled applicant.
- (B) The disability of the applicant is of such a severe degree that an extreme hardship would exist if the applicant were to use the available off-street parking.
- (C) The approval of a reserved on-street space is determined to be one of medical necessity and not one of mere convenience for the applicant.
- (D) The hardships placed on the applicant's neighbors by reserving an exclusive on-street space for the applicant is outweighed by the hardship that would be placed on the applicant if the space were not approved.

Based on the evidentiary record before the Board, Ms. Mull has satisfied each of those conditions. Accordingly, the decision of the Baltimore County Division of Traffic Engineering (DTE) shall be reversed and the application for the reserved handicapped parking space shall be granted.

**ORDER**

**THEREFORE, IT IS THIS** 19<sup>th</sup> day of January, 2021, by the Board of Appeals of Baltimore County,

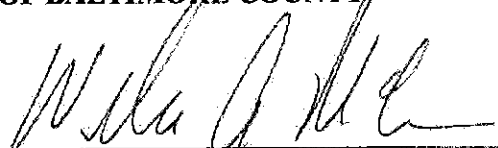
**ORDERED** that the decision of the Division of Traffic Engineering in the letter dated July 29, 2020, from Michael F. Filsinger, Chief of the Baltimore County Division of Traffic Engineering ("DTE") to Mr. Earl Beville, Assistant Manager, Investigative and Internal Affairs, Motor Vehicle Administration (MVA) denying Antoinette L. Mull's application for a reserved handicapped parking space at 706 Seawall Road, Baltimore, MD 21221, be, and the same hereby is, **REVERSED**; and it is further,

**ORDERED** that the application of Antoinette L. Mull for a reserved handicapped parking space at 706 Seawall Road, Baltimore, MD 21221, be, and the same hereby is, **GRANTED**.

**In the Matter of Antoinette L. Mull/CBA-21-006**

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS  
OF BALTIMORE COUNTY**

  
\_\_\_\_\_  
William A. McComas, Chair

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\_\_\_\_\_  
Adam T. Sampson

*see following page*  
\_\_\_\_\_  
Joseph L. Evans

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS  
OF BALTIMORE COUNTY**

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\_\_\_\_\_  
William A. McComas, Chair

*[Signature]*  
\_\_\_\_\_  
Adam T. Sampson

*see following page*  
\_\_\_\_\_  
Joseph L. Evans

**ORDER**

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**ORDERED** that the application of Antoinette L. Mull for a reserved handicapped parking space at 706 Seawall Road, Baltimore, MD 21221, be, and the same hereby is, **GRANTED**.

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**BOARD OF APPEALS  
OF BALTIMORE COUNTY**

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William A. McComas, Chair

see previous page  
Adam T. Sampson

[Signature]  
Joseph C. Evans





## Board of Appeals of Baltimore County

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January 19, 2021

Antoinette L. Mull  
706 Seawall Road  
Baltimore, Maryland 21221


RE: *In the Matter of: Antoinette L. Mull*  
Case No.: CBA-21-006

Dear Ms. Mull:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

  
Krysundra "Sunny" Cannington  
Administrator

KLC/taz  
Enclosure

- c. Earl Beville, Assistant Manager/Investigative & Security Division/Motor Vehicle Administration  
Greg Carski, Chief/Division of Traffic Engineering  
D'Andrea L. Walker, Acting Director/Department of Public Works  
Nancy C. West, Assistant County Attorney/Office of Law  
James R. Benjamin, Jr., County Attorney/Office of Law